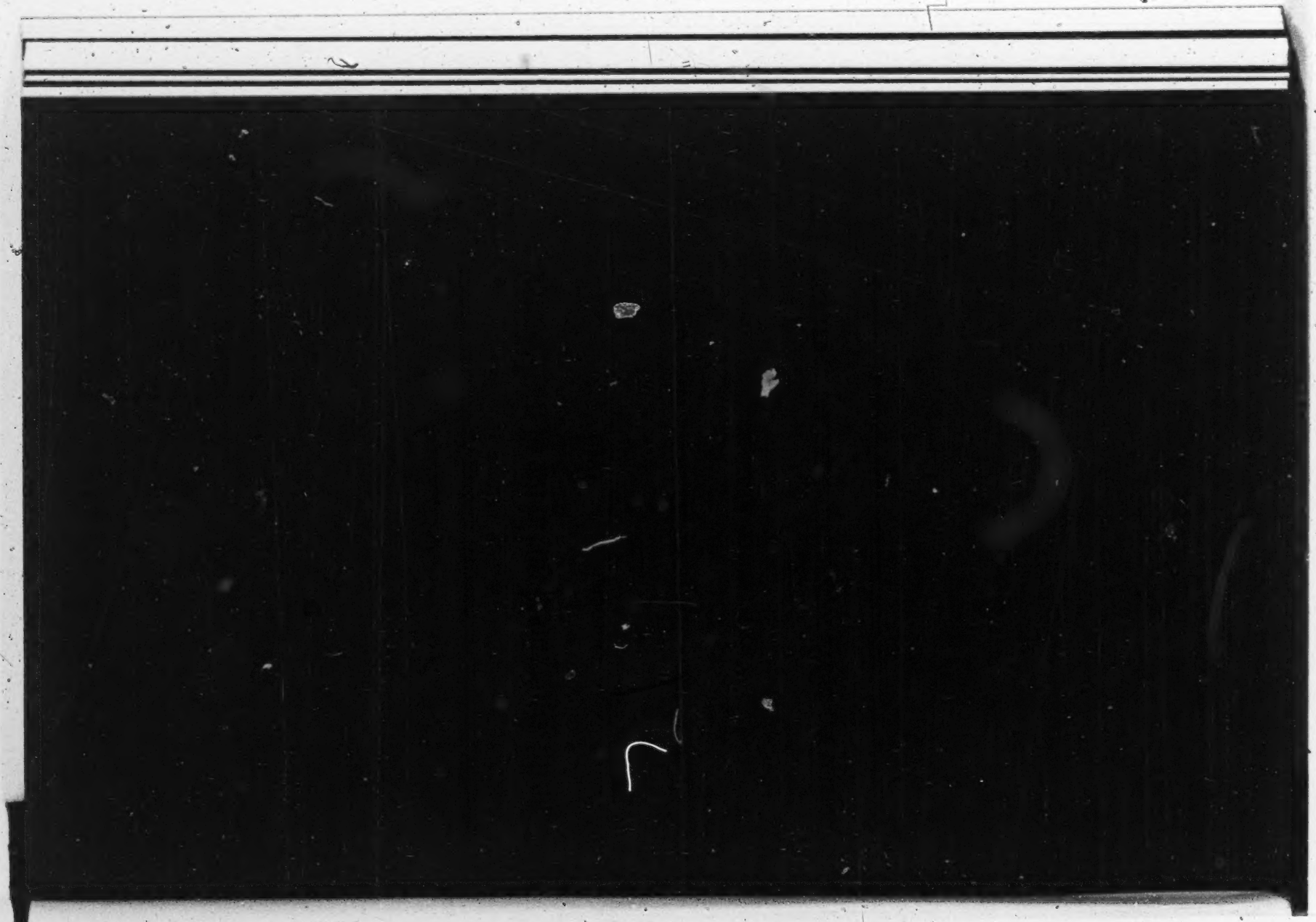


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In the Supreme Court of the United States.

OCTOBER TERM, 1940

No. ——, Original

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF ALABAMA

MOTION FOR LEAVE TO FILE COMPLAINT

The United States of America, by its Attorney General and its Solicitor General, asks leave of the Court to file its Complaint against the State of Alabama, submitted herewith.

ROBERT H. JACKSON,
Attorney General.

FRANCIS BIDDLE,
Solicitor General.

November 1940.

271196—40

STATEMENT IN SUPPORT OF MOTION

In a number of states, including Alabama, real estate taxes are by statute declared to be a lien on the land as of a date when, because the tax rate has not been fixed or the value of the property determined, the amount of taxes thereafter due and payable cannot be ascertained. The purpose of this suit is to determine whether real estate acquired by the United States after a statutory lien date but before the amount of taxes can be calculated passes to the Government subject to the lien.

Pursuant to the various recovery programs, the United States made extensive purchases of land in the State of Alabama and in other states having similar lien statutes. In making such purchases it has provided for the payment not only of taxes then due but also of taxes which, although not yet due, could then be calculated. Almost uniformly, however, it has made no provision for payment of taxes, the amounts of which were not ascertainable at the time of transfer. Relying on the statutory liens, various taxing bodies, including the State of Alabama, assert claims for taxes against real estate acquired by the United States after the lien date but before completion of levy and assessment.

As the attached complaint discloses, a statute of the State of Alabama provides that on October 1 of each year real estate is subject to a lien for state and

county taxes due the following October 1 (Gen. Acts 1935, No. 194 (p. 256), Secs. 372, 11). However, the assessed value of the real estate is not finally fixed until about the first of April. The rates of state taxation are fixed by statute (Sec. 8). But the rate of county taxation is not fixed until February, when the Court of County Commissioners sits to fix the rates for general and special county taxes (Sec. 64). Thereafter, the county boards of review consider and revise the valuations made by the county assessors. The boards meet on the second Monday of March and sit until not later than the first Monday in April (Sec. 72). Thus it is impossible to calculate the amounts of taxes until the boards of review have completed their work.

The United States has not made provision for the payment of taxes on Alabama lands acquired after October 1 but before the amounts of the taxes could be computed. As a result, numerous tracts of land owned by it have been sold for delinquent state and county taxes. The prayer of the attached complaint is to quiet the title of the United States to three tracts of land acquired respectively, October 1, 1936, December 9, 1936, and March 10, 1937. These dates are on or after the lien date and before the values were definitely determined, by reason of the adjournment of the boards of review. Each of these tracts has been sold to the State of Alabama for unpaid taxes for the year commencing October 1, 1936.

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In the Supreme Court of the United States

OCTOBER TERM, 1940

No. ——, Original

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF ALABAMA

COMPLAINT

The United States of America, by its Attorney General and its Solicitor General, brings this suit in equity against the defendant, the State of Alabama, and for its cause of action states:

I

The plaintiff is the owner in possession of the following described tracts of land situate in the County of Macon, State of Alabama, all of which were acquired by the plaintiff at the time and in the manner more particularly set forth following the individual descriptions:

Tract 1:

SE¼ of SE¼ of Sec. 35, Twp. 18 North, Rge. 24 East; SW¼ of SW¼ of Sec. 36, Twp. 18 N., Rge. 24 E.; 10 acres off the West

Side of SE¼ of SW¼ of Sec. 36, Twp. 18 North, Rge. 24 East, said 10 acres being in the form of a rectangle 110 yds. by 440 yds.; E½ of E½ of Sec. 2, Twp. 17 North, Range 24 East and 174 acres off the West Half of Sec. 1, Twp. 17 N., Rge. 24 E.

Conveyed to the United States by J. E. Bridges et al., by deed dated October 1, 1936, recorded October 1, 1936, in Deed Book 28, page 579.

Tract 2:

SW¼ of NW¼ of Sec. 36, Twp. 18 N., Rge. 24 E., of St. Stephens Meridian, less Two Acres off of the NW cor. of Tract for School Lot; subject to Right-of-Way to M. W. Zachary, over a strip of land thirty (30) feet wide running along the So. Boundary of the W½ of S½ of NW¼ of Sec. 36, Twp. 18 N., Rge. 24 E., 6.3 acres on E. side of SE¼ of NE¼, Sec. 35, T. 18 N., Rge. 24 E., St. Stephens Meridian.

Conveyed to the United States by Tom W. Willis and wife by deed dated December 9, 1936, recorded December 10, 1936, in Book 31 of Deeds, page 42, and by deed from Tom W. Willis and wife dated December 9, 1936, recorded December 10, 1936, in Book 31 of Deeds, page 41.

Tract 3:

That part of the E½ of Sec. 21, lying West and South of the Euphaupee Creek, containing 160 acres; the W½ of W½ of Sec. 27, containing 160 acres; the E½ of Sec. 28, containing 320 acres; the E½ of

NE¼, and that part of the N½ of NE¼ of SE¼ of Sec. 33, lying North of the Community Public Road, containing 80 acres. All of the above-described property in Twp. 17 N., Rge. 24 E., containing 720 acres, more or less.

Conveyed to the United States by R. M. Boyd and wife by deed dated March 10, 1937, recorded March 11, 1937, in Book 31 of Deeds, page 121.

II

At the time of the transfer of title to the United States the amount of state and county taxes against each of said parcels of land for the tax year 1937; i. e., for the year commencing October 1, 1936, had not been determined or ascertained, and said taxes were not paid either at the time of the various transfers or thereafter. Notwithstanding the fact that the amount of said taxes had not been ascertained prior to the acquisition of title by the plaintiff, said lands were thereafter returned delinquent and, pursuant to decrees of the Probate Court of Macon County, were sold to the defendant under the laws of the State of Alabama. Thereafter on, to wit, June 29, 1939, certificates of purchase were issued to the defendant which certificates were not thereafter assigned and which are numbered as follows: Tract 1, Certificate No. 2; Tract 2, Certificate No. 7; Tract 3, Certificate No. 1.

III

The defendant is asserting that valid liens were created against the above-described lands in the amount of the 1937 tax assessments by reason of a statute of the State of Alabama which declares that the state and county taxes for the tax year 1937 became a lien on October 1, 1936. The defendant is further claiming an interest in said lands adverse to the title and ownership of the plaintiff by reason of the subsequent tax sales and the subsequently issued certificates of purchase.

IV

These claims constitute clouds on the title to the lands herein described which interfere with the lawful use thereof by the plaintiff and which will interfere with any efforts to dispose of said lands in the future unless said tax certificates and asserted liens are declared void and the defendant perpetually enjoined from making any claim by reason thereof.

V

Any attempt by the defendant or its future assignees to assert its claims or to obtain possession of said lands will result in irreparable injury to the plaintiff for which there is no adequate remedy at law.

VI

The claims of the defendant to an interest in said lands, by virtue of the tax liens and sales,

are invalid as amounting to an attempt to tax property of the plaintiff in violation of the Constitution of the United States, and as resulting from judicial proceedings in which the United States was made a defendant without its consent.

Wherefore, plaintiff prays:

1. That a decree be entered declaring and adjudging that the said 1937 tax assessments did not create a lien against the lands described in this complaint.

2. That a decree be entered quieting the plaintiff's title to said lands and declaring void the tax certificates issued to the defendant.

3. That the defendant, its officers and assigns be forever enjoined from asserting any claim whatsoever in and to said lands adverse to the plaintiff or its successors in title.

4. For such other and further relief as this Court may deem proper and necessary.

ROBERT H. JACKSON,
Attorney General.

FRANCIS BIDDLE,
Solicitor General.

NOVEMBER 1940.

U. S. GOVERNMENT PRINTING OFFICE: 1940